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7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE EASTERN DISTRICT OF CALIFORNIA

9 JAMES R. KERNS,

10 Petitioner,

No. CIV S-05-0746 GEB KJM P

11 vs.

12 A.K. SKRIBNER, Warden,

13 Respondent.

ORDER

14 \_\_\_\_\_/  
15 Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of  
16 habeas corpus under 28 U.S.C. § 2254, together with a request to proceed in forma pauperis.

17 Examination of the in forma pauperis affidavit reveals that petitioner is unable to  
18 afford the costs of suit. Accordingly, the request for leave to proceed in forma pauperis is  
19 granted. See 28 U.S.C. § 1915(a).

20 Because petitioner may be entitled to the requested relief if the claimed violation  
21 of constitutional rights is proved, respondent will be directed to file an answer.

22 Petitioner has requested the appointment of counsel. There currently exists no  
23 absolute right to appointment of counsel in habeas proceedings. See Nevius v. Sumner, 105 F.3d  
24 453, 460 (9th Cir. 1996). However, 18 U.S.C. § 3006A authorizes the appointment of counsel at  
25 any stage of the case “if the interests of justice so require.” See Rule 8(c), Fed. R. Governing  
26 § 2254 Cases. In the present case, the court does not find that the interests of justice would be

1 served by the appointment of counsel at the present time.

2 In accordance with the above, IT IS HEREBY ORDERED that:

3 1. Petitioner's request to proceed in forma pauperis is granted;

4 2. Respondent is directed to file an answer within sixty days from the date of this  
5 order. See Rule 4, Rules Governing Section 2254 Cases. Respondent shall include with the  
6 answer any and all transcripts or other documents relevant to the determination of the issues  
7 presented in the application. Rule 5, Rules Governing Section 2254 Cases; if the response is an  
8 answer, petitioner's reply, if any, is due on or before thirty days from the date respondent's  
9 answer is filed;

10 3. If the response to petitioner's habeas petition is a motion, petitioner's  
11 opposition or statement of non-opposition to the motion shall be filed and served within thirty  
12 days of service after service of the motion, and respondent's reply, if any, shall be filed and  
13 served within fifteen days thereafter; and

14 4. The Clerk of the Court shall serve a copy of this order together with a copy of  
15 petitioner's application for writ of habeas corpus on Jo Graves, Senior Assistant Attorney  
16 General.

17 5. Petitioner's April 18, 2005 request for appointment of counsel is denied  
18 without prejudice to a renewal of the motion at a later stage of the proceedings.

19 DATED: May 24, 2005.

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22 UNITED STATES MAGISTRATE JUDGE  
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